

### **REMARKS**

In the Office Action under reply, a third and nonfinal Action in this case, claims 1-45 and 96-140 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 42-44 of U.S. Patent No. 6,649,138. Accordingly, Applicants submit a terminal disclaimer with this response disclaiming patent term beyond the expiration of U.S. Patent No. 6,649,138. As such, the rejection of these claims under obviousness-type double patenting is obviated.

In addition, claims 10-15 are rejected under 35 U.S.C. §112, second paragraph, as indefinite. In making this rejection, the Examiner indicates that the subject matter of claim 10 is inconsistent with that of claim 1 on which it depends, and that claims 11-15 are deemed indefinite in view of their dependency on claim 10.

Applicant has now amended claim 10 to read as follows; claim 1 is presented here to indicate that the language of claim 10 is now consistent with that of claim 1:

1. (Original) A conjugate of an affinity molecule and a water-dispersible nanoparticle, wherein the nanoparticle comprises (a) an inner core comprised of a semiconductive or metallic material, (b) a water-insoluble organic coating provided thereon, (c) an outer layer of a multiply amphipathic polymer having at least two hydrophobic regions and at least two hydrophilic regions, and (d) a functional group directly or indirectly linked to the multiply amphipathic polymer, and further wherein the affinity molecule is bound to the functional group.

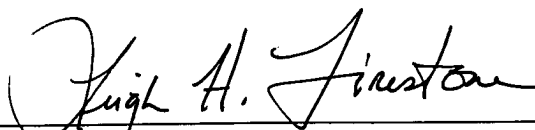
10. (Currently amended) The conjugate ~~water-dispersible nanoparticle~~ of claim 1, wherein the inner core of the nanoparticle is comprised of a semiconductive material.

Claims 11-15 are also now no longer indefinite in view of their dependency on newly amended claim 10.

In addition, the Examiner has indicated that claims 46-95 and 141-189 are allowed.

In light of the present amendments, then, all pending claims should now be allowable, and a Notice of Allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, reading "Leigh H. Firestone". The signature is written in a cursive, flowing style. The first name "Leigh" is written with a large, looped 'L'. The middle initial "H." is written in a smaller, simpler script. The last name "Firestone" is written with a large, looped 'F' and a trailing flourish.

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